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SENATE BILL 768

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING FOR THE DISPOSITION OF UNCLAIMED PERSONAL PROPERTY THAT COMES INTO THE POSSESSION OF A PEACE OFFICER; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-1-14 NMSA 1978 (being Laws 1983, Chapter 50, Section 2, as amended) is amended to read:

"29-1-14. UNCLAIMED PROPERTY--AUTHORITY TO SELL--NOTICE OF SALE--DEADLY WEAPONS, CONTROLLED SUBSTANCES AND OTHER CONTRABAND EXCEPTED.--

A. Any personal property having a fair market value greater than fifty dollars (\$50.00) that has been unclaimed by the true owner, is no longer necessary for use in obtaining a conviction, is not needed for any other public purpose and has been in the possession of a state, county or municipal law

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 enforcement agency for more than ninety days shall be sold at
2 public sale. [~~Firearms shall be sold only to licensed dealers~~
3 ~~or licensed collectors as defined in the federal Gun Control~~
4 ~~Act of 1968.~~]

5 B. Prior to the sale of seized personal property,
6 the law enforcement agency shall make a reasonable attempt to
7 notify the original owner of the seized personal property and
8 shall publish a notice of the sale of unclaimed personal
9 property once each week for two successive weeks. The notice
10 shall contain:

11 (1) a brief description of the personal
12 property to be sold;

13 (2) the time and place of the sale; and

14 (3) the name of any purported owner [~~or~~
15 ~~owners~~], if known.

16 C. If prior to the sale the true owner identifies
17 the personal property to be sold and offers strict proof of
18 identity and ownership of the personal property, the personal
19 property shall be returned to its true owner.

20 D. Any personal property offered but not sold at a
21 public sale may be destroyed or otherwise disposed of upon
22 application to the district court, ex parte and without notice.

23 E. Any personal property sold at public sale,
24 claimed by its true owner, destroyed or otherwise disposed of
25 pursuant to this section shall be removed from the inventory

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[bracketed material] = delete

1 record kept by the law enforcement agency.

2 F. Any personal property having a fair market value
3 equal to or less than fifty dollars (\$50.00) that has been
4 unclaimed by the true owner, is no longer necessary for use in
5 obtaining a conviction, is not needed for any other public
6 purpose and has been in the possession of a state, county or
7 municipal law enforcement agency for more than ninety days may
8 be destroyed, except as otherwise provided by order of the
9 district court upon ex parte application without notice.

10 G. Any alcoholic beverage that has been unclaimed
11 by the true owner, is no longer necessary for use in obtaining
12 a conviction, is not needed for any other public purpose and
13 has been in the possession of a state, county or municipal law
14 enforcement agency for more than ninety days may be destroyed
15 or may be utilized by the scientific laboratory division of the
16 department of health for educational or scientific purposes.

17 H. This section shall not apply to deadly weapons,
18 except for firearms or other items of significant historical
19 value, poisons, controlled substances or other contraband
20 lawfully seized as evidence for the prosecution of a violation
21 of statute or ordinance or which has otherwise come into the
22 lawful possession of a state, county or municipal law
23 enforcement agency and has been in possession for more than
24 ninety days. Once it is determined by the law enforcement
25 agency that any property enumerated in this subsection is no

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1 longer necessary for use in obtaining a conviction or is not
2 needed for any other public purpose, the law enforcement agency
3 may apply to the district court, ex parte and without notice,
4 for an order authorizing destruction or other disposition of
5 the property; provided that prior to the sale of firearms, a
6 state, county or municipal law enforcement agency shall allow
7 state museums access to agency inventory records for the
8 purpose of inspecting and selecting firearms that are
9 appropriate to state museum firearm collections. The court
10 shall grant the application if the proposed destruction or
11 disposition is in the best interest of the public safety and
12 welfare.

13 I. This section shall not apply to any personal
14 property for which a notice of intent to claim has been served.
15 Any victim, as defined in Section [~~31-24-3~~] 31-26-3 NMSA 1978,
16 or alleged victim shall be entitled to serve notice of intent
17 to claim ownership of any personal property upon that person,
18 agency or entity in actual custody or control of the property.
19 Nothing in this subsection shall be construed to limit,
20 interfere with or affect the rights or remedies of the rightful
21 owner of any seized property. "

22 Section 2. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2003.